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09/617,156	07/17/2000	Darrell Metcalf		8276

7590 12/23/2003  
Darrell Metcalf  
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EXAMINER

MOONEYHAM, JANICE A

ART UNIT PAPER NUMBER

3629

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/617,156

Applicant(s)

METCALF, DARRELL

Examiner

Jan Mooneyham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 40-113 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 40-113 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: *Renumbered Claims*.

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### **DETAILED ACTION**

This is in response to the applicant's communication filed on September 2, 2003.

Due to the renumbering of Claims, Claims 40-113 are now pending in this application.

Claims 1-39 have been canceled and all claims renumbered – see the attached claims with correct numbers.

An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

### ***Claim Objections***

#### **6.17 Numbering of Claims, 37 CFR 1.126**

The numbering of claims is not accordance with 37 CFR 1.126, which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

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The examiner has attached a copy of the amended claims with the new numbering for the applicant. Applicant is advised to use the numbering system of the attached claims and if applicant has questions about the numbering of claims to please contact the examiner.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 60 and 62 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant states that the computer has a user interface that is similar in appearance and offers functionality similar to that of an ATM. This does clearly define the invention.

Some of the dependent claims are still written in incorrect format. For example Claim 56.

Claim 100 is directed to a method which comprises the steps of:

A customer

A customer is not a step in a method claim.

Furthermore, Claims 100 and 108 are directed to a method which does not provide any method steps.

The applicant should re-write claims 100-113 in correct form if the applicant intends for them to be a method step.

**Claims 40-113 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.**

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. **Note the format of the claims in the patent(s) cited.**

***Response to Amendment***

The amendment filed on September 9, 2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

In Claim 90, the applicant has introduced a Global Positioning System. This was not in the original specification or claims.

In Claim 66, "the workstations are arranged adjacent to one another to form a contiguous perimeter which surrounds" was not in the original specification or claims.

In Claim 71, "when the latter and the former are coupled together by suitable coupling means" was not in the original specification or claims.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 40-113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fulton et al. (US Patent No. 6,182, 052) (hereinafter referred to as Fulton) in view of Chelliah et al. ( US Patent No. 5, 710, 887) (hereinafter referred to as Chelliah).**

Fulton discloses an apparatus and software for establishing a bi-directional communication link between at least one customer and a large publicly accessible communications network such as the Internet, and for providing an online dual-commerce system, comprising:

- a.) a browser device having network-browsing software (col. 3, lines 40-54)
- b.) network connection means (col. 3, lines 40-54)
- c.) network-user identification and verification means ( col. 2, lines 34-38, col. 4, lines 37-44)
- d.) at least one networked computer, software and user interface representing at least one networked-venue, said computer and software of a type which provides a current databased selection of available online-choices and available networked-venue-choices of goods, or services, or activities, or combinations thereof (Figs. 1-16, col. 1, lines 55-64, col. 2, lines 57-58),
- e.) software and user interface suitable for

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i. providing communications with said networked computer(s), and for taking, recording, and reporting customer orders from choices provided by said current databased selection (Figs. 1-16)

ii. making at least one order from said available online-choices (Figs. 1-16)

iii. making at least one order from said available networked-venue choices whereby said order(s) is scheduled and reserved according to a current condition of a chronological table of scheduled and available customer-events (Figs. 1-16);

is downloadable in the form of an itinerary (tickets) by said customer; and

is subsequently culminated following the scheduled arrival of the ordering customer at a physical location of said networked-venue(s) that is designated for expedited service, following the verification of the customer's identification and order by suitable identification and order verification means located at the physical location(s) (Figs. 1-16)

iv. automated database-condition editing, monitoring and reporting which, is responsive to changes to said current databased selection when each online order is made, and when each online scheduled and reserved venue-order is made and subsequently culminated from said networked-venue(s); and which, causes record-keeping and record-updating software routines to automatically record transaction details pertaining to said online order(s) and said scheduled and reserved order(s) and to update and report the availability of subsequent orderings, schedulings, and reservations to said current databased selection when any order is completed (Figs. 1-16).

Fulton does not specifically disclose an automated database condition editing, monitoring and reporting in response to changes. However, Chelliah discloses an automated database

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condition editing, monitoring and reporting in response to changes (col. 3, lines 47-56, col. 14, line 63 thru col. 15, line 5).

It would have been obvious to one of ordinary skill in the art to incorporate into system of Fulton the editing capabilities of Chelliah since a shopper may elect not to purchase a selected item and the Purchase List must then be updated.

Fulton further discloses the browser device consisting of a handheld apparatus having wireless bi-directional connectivity to the Internet (col. 4, line 5 thru col. 5, line 13).

Fulton further discloses the browser device consisting of a computer and a modem (col. 4, line 66 thru col. 5, line 3).

Chelliah further discloses the network browsing software of consisting of a commercially available browser application (col. 1, lines 28-34).

Chlliah further discloses a network browsing software consisting in the combination of a commercially available browser application and an Internet portal (col. 1, line 28-34).

Chelliah further discloses said user interface wherein said interface comprises an Internet portal (col. 12, lines 1-9).

Chelliah further disclosest a network connection means of claim 1 consisting of an Internet connection made by an Internet Service Provider (col. 2, lines 11-34).



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Chelliah further discloses the identification and order verification means consisting of at least one commercially available customer identification and verification apparatus suitable for communication with said networked-computer (col. 12, lines 54-65, col. 4, lines 6-15).

Chelliah further discloses a user interface and software suitable for establishing a communication link with said networked computer(s) of claim 1, further comprising at least one software routine for providing a customer with a printout record (col. 17, lines 31-44 – generating receipt)

Chelliah further discloses a ordering means further comprising at least one software routine for automatically providing a networked-venue merchant with transaction details pertaining to his venue's sales (col. 25, line 16 – 68 Observation Subsystem)..

Fulton further discloses a ordering, scheduling and reservation means further comprising at least one software routine for automatically providing a networked-venue merchant with transaction details pertaining to schedulings and reservations (Figs. 1, 15, 16).

Chelliah further discloses the record-keeping and record-updating software of claim 1, further comprising at least one software routine for automatically providing a supplier of a networked-venue with transaction details pertaining to that venue's sales (col. 25, lines 16-68 – Observation Subsystem).

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Chellian further discloses a record-keeping and record-updating software further comprising at least one software routine for automatically calculating and deducting a sales commission based on the type of online order made (Figs. 11, Fig. 12A).

Chelliah further discloses a ordering means further comprising at least one software routine for facilitating the delivery of online order(s) of goods to a customer (col. 3, lines 57-65).

Fulton further discloses a networked-venue and networked computer and software further comprising software routines for the confirmation of customer orders (col. 5, lines 63-66)

Chelliah further discloses a networked-venue and networked computer and software further comprising software routines for the verification of customer identification (Fig. 2 (112), col. 9, line 64 thru col. 10, lines 2).

Chelliah further disclosest a customer identification software of claim 16 further consisting of at least one commercially available networkable customer identification and verification apparatus ((Fig. 2 (112), col. 9, line 64 thru col. 10, lines 2, col. 8, lines 35-64).

Chelliah further disclose a browser device consisting of at least one networked computer located at a physical networked-venue (col. 1, lines 5-12, col. 3, lines 5-16).

Fulton further discloses a browser device consisting of at least one networked computer located at a facility which also incorporates a plurality of physical networked-venues (Figs. 1-16, col. 1, lines 10-17).

Chelliah further discloses a dual-commerce apparatus further comprising software routines for entering and recording financial transaction card information and for reporting transactions to at least one financial transaction card vendor (col. 12, lines 56-65, col. 15, line 43 thru col. 17, line 30).

Fulton further discloses a browser device consisting of at least one networked computer located at a physical networked-venue, said computer having a user interface that is similar in appearance and offers functionality similar to, an Automated Teller Machine (ATM) including means for reading, recording and reporting financial transaction card information (col. 1, lines 25-35).

Chelliah further discloses a networked-venue further comprising a secured entertainment-content replication environment and retail-inventory wherein networked workstations are arranged to secure entertainment-content replication equipment and an inventory of merchandise in an optimized workstation system such that said equipment and the product of thereof, and said

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inventory, is consolidated in a space-saving manner and is out of reach to customers until purchased, and wherein each of said workstations:

- a.) comprises a networked-computer having connectivity to at least one network, and has a user interface to facilitate transactions and interactions (col. 1, lines 6-13),
- b.) has networked order-taking apparatus and software routines to facilitate user ordering and financial transactions pertaining to said product and said inventory and for reporting and recording said transactions (col. 12, line 28 thru col. 17, line 30),
- c.) has record-keeping and record-updating software routines to automatically record transaction details pertaining to any workstation order and to update and report the availability of merchandise, according to the order(s) made (col. 17, lines 31-44, col. 3, lines 46-55).

Fulton further discloses a customer ordering means further comprising multimedia-playback software routines and at least one type of multimedia content for facilitating customer transactions with the playback of said multimedia content (col. 4, line 61 thru col. 5, line 13).

Fulton further discloses a customer ordering means wherein the multimedia-playback means features multimedia content having meaning that is relevant to the context of customer transactions and interactions, and is synchronous thereto, and helps to facilitate order decisions (col. 4, line 61 thru col. 5, line 13).

Chelliah further discloses a apparatus and software wherein said at least one computer consists of at least one networked server computer and software having a communication link with at least one client computer and software (col. 1, lines 5-13, col. 3, lines 5-18).

Chelliah further discloses a dual-commerce system wherein said physical location of said networked-venue(s) designated for expedited service, is schedulable up to 100% flow rate of scheduled customers (see entire patent).

Chelliah further discloses a dual-commerce system wherein said physical location of said networked-venue(s) designated for expedited service, is scalable to accommodate increased scheduled customer flow rates (see entire patent).

Fulton further discloses a customer identification and order verification means of the networked-venue(s) further comprising bi-directional communication link with at least one wireless handheld device (col. 4, line 4 thru col. 5, line 3).

Fulton further discloses the apparatus and software of claim 1 further consisting of means for a customer download said itinerary to a wireless device (col. 4, line 4 thru col. 5, line 3).

**Claims 64 and 65 rejected under 35 U.S.C. 103(a) as being unpatentable over Fulton and Chelliah , and further in view of Rosenberg et al. (US Patent No. 6,418,416) (hereinafter referred to as Rosenberg).**

Neither Fulton nor Chelliah disclose an inventory management system. However, Rosenberg discloses an inventory management system and method comprising:  
The networked venue of Claim 1 further comprising a secured retail inventory environment wherein networked workstations are arranged to secure an inventory of merchandise in an optimized workstation system such that said inventory is consolidated in a space-saving manner and is out of reach to customers until purchased (the examiner takes Official Notice that all e-commerce inventory is out of reach to customer until purchased), and wherein each of said 1 workstations:

- a.) comprises a networked computer having connectivity to at least one network, and has a user interface to facilitate transactions and interactions (Fig. 1),
  - b.) has networked order-taking apparatus and software routines to facilitate user financial transactions and for reporting and recording said transactions (Fig. 4-18c)
  - c.) has record-keeping and record-updating software routines to automatically record transaction details pertaining to any workstation order and to update and report the availability of merchandise, according to the order(s) made (Figs. 1-18c).
- a.) at least one motion-control computer with motion-control software that is networked to the workstation system (col. 4, lines 10-20)

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- b.) a multiplicity of securely located merchandise slots that are vertically aligned in columns and horizontally aligned in rows (Fig. 1, col. 3, lines 55-67)
- c.) at least one computer-accessible record of the vertical position and horizontal position of each said merchandise slots (col. 3, line 55 thru col. 6, line 30)
- d.) at least one updateable computer-accessible record of the vertical position and horizontal position of said merchandise slots and the type of merchandise stored therein (col. 3, line 55- col. 6, line 30)
- e.) at least one computer-accessible record of the vertical position and horizontal position of a receiving end of each workstation delivery chute located adjacent to each workstation (col. 3, line 55 thru col. 6, line 30)
- f.) a motion controller interface coupled between said motion-control computer(s) and electro-mechanical actuators (col. 4, lines 10-20)
- g.) at least one motion-controllable member that is positionable by said actuator(s) in a horizontal axis having a pick-and-place robotic apparatus operative from an end thereof that is positionable in a vertical axis by said actuator(s) (col. 3, line 55 thru col. 6, line 30)
- h.) an electro-mechanically actuated merchandise gripping means that is positionable to securely grip merchandise and move it in and out of any merchandise slot and to also move it into a receiving end of any workstation delivery chute the combination of which is responsive to user input with, and control signals from, at least one computer that is networked to the workstation system to provide (Fig. 1 (125), col. 4, lines 28-34, col. 6, line 30 – Functional Description):

- i. stocking, retrieval and re-stocking of merchandise; and
- ii. automated delivery of said merchandise to a user's workstation chute by accessing at least one of said computer-storable record and communicating the record data to said motion-control computer for the computer-controlled positioning of said member(s), said pick-and-place robotic apparatus, and said gripping means
- iii. merchant input from a networked computer for automated pick-and-place control of inventory.

Rosenberg further discloses an automated merchandise pick-and-place system for secured retail inventory comprising rapid inventorying apparatus comprising at least one emitter-detector light sensing means that is positionable by computer motion-control to sweep in a controlled path past merchandise slots and interpret the difference in light reflectivity of vacant container slots and container slots occupied with merchandise, and rapidly scans slot-empty states or slot-occupied states and records, maintains and reports all state-conditions of the inventory to said record-keeping and record-updating software (col. 4, lines 10- 4).

Rosenberg does not disclose a gripping means. However, it would have been obvious to one of ordinary skill in the art to incorporate a gripping means into the method and system of Rosenberg since this would provide a way for the items or articles to be retrieved once they are ordered.

It would have been obvious to one of ordinary skill in the art to incorporate in the method and system of Fulton and Chelliah the teachings of Rosenberg since distributed networks such as the Internet facilitate the controlled dispensing, inventorying and re-ordering of supplies which can prevent the occurrence of inventory shortages, overstocking and pilferage.



Rosenberg further discloses a workstation system further comprising at least one ATM style workstation which adjoins an exterior wall of the networked-venue and provides workstation functionality (Fig. 1 (120), Col. 4, lines 51-64).

Rosenberg further discloses a workstation system wherein each of said workstations has hi-speed connectivity and provides interactivity with the workstations of at least one other workstation system (Fig. 1, col. 4, line 65 thru col. 6, line 30).

Rosenberg discloses a optimized networked workstation system wherein each of said workstations provide software and hardware means for browsing, previewing, ordering, uploading, and keeping a computer-accessible record of order transaction details pertaining to orders for, and uploadings of, medialess digitally-recorded entertainment-content such as MP3 (Mpeg 3) files that are ordered and received by customers having networked communication with said system (Figs. 1-18c, col. 4, line 65 thru col. 6, line 30).

Rosenberg further discloses a networked communication consisting in bi-directional communication between said workstation(s) and at least one wireless handheld device suitable for receiving digitally-recorded files (col. 4, lines 51-64).

Rosenberg further discloses the networked communication of claim 33 consisting in bi-directional communication between said workstation(s) and at least one coupled handheld device suitable for receiving digitally-recorded files (Fig. 1-18c), col. 4, line 65 thru col. 6, line 30).

***Response to Arguments***

Applicant's arguments filed on September 2, 2003 have been fully considered but they are not persuasive. The applicant has written the claims in such a manner that the cited prior art is still relevant.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

DeLorme (US Patent 5,948,040) discloses a computerized reservation system which allows for amendments and editing and mobile users.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jan Mooneyham whose telephone number is (703) 305-8554. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-308-3691.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

JM



JOHN G. WEISS  
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